**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929**

**WP(C).No. 24047 of 2007(K)**

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**AGAINST THE ORDER IN IA 463/2007 IN OS.403/2004 of MUNSIFF COURT, KODUNGALLUR**

**.....**

**PETITIONER:**

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**ABDUL LATHEEF HAJI,**
**S/O.ARAKKEL KUNJIMOIDEEN HAJI,**
**KAIPAMANGALAM VILLAGE,**
**KODUNGALLUR.**

**BY ADV. SRI.K.S.RAJESH**
**SRI.M.SHAJU PURUSHOTHAMAN**

**RESPONDENTS:**

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1. **SHEREEFA,**
**W/O.PUTHIYAVEETTIL SIDIQUE,**
**KAIPAMANGALAM VILLAGE,**
**KODUNGALLUR TALUK.**

2. **MUHAMMED,**
**S/O.ANDIYEZHATH SULAIMAN,**
**KAIPAMANGALAM VILLAGE,**
**KODUNGALLUR TALUK.**

3. **SIHAB,**
**S/O.MULLASSERY ABDULRAHIMAN,**
**KAIPAMANGALAM VILLAGE,**
**KODUNGALLUR TALUK.**

4. **SEENATH, W/O.PUTHIYAVEETTIL MANJEED,**
**KAIPAMANGALAM VILLAGE,**
**KODUNGALLUR TALUK.**

**BY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**M.N.KRISHNAN, J.**

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**WP(C)No. 24047 OF 2007 K**

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**Dated this the 10th August, 2007.**

**JUDGMENT**

This writ petition is preferred to set aside the order passed by the Munsiff, Kodungallur in I.A.921/06 in O.S.403/04. It is an application filed for setting aside the commissioner's plan and report. The Taluk Surveyor, the Advocate Commissioner and the plaintiff were examined as P.Ws 1 to 3. So, as far as the evidence of P.W.3, the plaintiff is concerned the court has observed that he has not gone through Exts.C1 and C1(a) report and plan. So less about his evidence the better. In the application also what the party has chosen is to have his own choice of a surveyor, a private surveyor who is an Advocate also and he submits a plan and report and wants to set aside the plan and report prepared by the commissioner who is appointed by the court. Nothing has been brought out as is seen from the order of the learned Munsiff to totally reject the commissioner's plan and report. Just because a private surveyor has visited the property and had given a plan to the party, it will not be a ground to set aside another plan and report submitted by an Advocate Commissioner with the assistance of a surveyor. Therefore, I do not find any merit in the writ petition and it is

dismissed. But I make it clear that the dismissal of this shall not be a bar to the present writ petitioner in adducing evidence against the commissioner's plan and report at the stage of evidence.

**M.N.KRISHNAN**
**Judge**

jj